

“(2) EXCEPTIONS.—Nothing in subsection (a) [amending this section] shall be construed to make any transaction a prohibited transaction which, under announcements of the Internal Revenue Service made with respect to section 503(c)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] before the date of the enactment of this Act [Sept. 2, 1958], would not constitute a prohibited transaction. In the case of any bond, debenture, note, or certificate or other evidence of indebtedness acquired before the date of the enactment of this Act [Sept. 2, 1958], by a trust described in section 401(a) of such Code which is held on such date, paragraphs (2) and (3) of section 503(h) of such Code shall be treated as satisfied if such requirements would have been satisfied if such obligation had been acquired on such date of enactment [Sept. 2, 1958].”

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

§ 504. Status after organization ceases to qualify for exemption under section 501(c)(3) because of substantial lobbying or because of political activities

(a) General rule

An organization which—

(1) was exempt (or was determined by the Secretary to be exempt) from taxation under section 501(a) by reason of being an organization described in section 501(c)(3), and

(2) is not an organization described in section 501(c)(3)—

(A) by reason of carrying on propaganda, or otherwise attempting, to influence legislation, or

(B) by reason of participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for public office,

shall not at any time thereafter be treated as an organization described in section 501(c)(4).

(b) Regulations to prevent avoidance

The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of subsection (a), including regulations relating to a direct or indirect transfer of all or part of the assets of an organization to an organization controlled (directly or indirectly) by the same person or persons who control the transferor organization.

(c) Churches, etc.

Subsection (a) shall not apply to any organization which is a disqualified organization within the meaning of section 501(h)(5) (relating to churches, etc.) for the taxable year immediately preceding the first taxable year for which such organization is described in paragraph (2) of subsection (a).

(Added Pub. L. 94-455, title XIII, §1307(a)(2), Oct. 4, 1976, 90 Stat. 1721; amended Pub. L. 100-203, title X, §10711(b)(1), (2)(A), Dec. 22, 1987, 101 Stat. 1330-464.)

PRIOR PROVISIONS

A prior section 504, acts Aug. 16, 1954, ch. 736, 68A Stat. 168; Oct. 22, 1968, Pub. L. 90-630, §6(a), 82 Stat.

1330, related to denial of exemption, prior to repeal by Pub. L. 91-172, title I, §101(j)(15), Dec. 30, 1969, 83 Stat. 527. For effective date of repeal, see section 101(k)(2)(B) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

AMENDMENTS

1987—Pub. L. 100-203, §10711(b)(2)(A), substituted “substantial lobbying or because of political activities” for “substantial lobbying” in section catchline.

Subsec. (a)(2). Pub. L. 100-203, §10711(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “is not an organization described in section 501(c)(3) by reason of carrying on propaganda, or otherwise attempting, to influence legislation,”.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable with respect to activities after Dec. 22, 1987, see section 10711(c) of Pub. L. 100-203, set out as a note under section 170 of this title.

CONSTRUCTION OF AMENDMENT

Section 1307(a)(3) of Pub. L. 94-455 provided that: “It is the intent of Congress that enactment of this section [amending section 501 and enacting section 504 of this title] is not to be regarded in any way as an approval or disapproval of the decision of the Court of Appeals for the Tenth Circuit in *Christian Echoes National Ministry, Inc. versus United States*, 470 F.2d 849 (1972), or of the reasoning in any of the opinions leading to that decision.”

§ 505. Additional requirements for organizations described in paragraph (9), (17), or (20) of section 501(c)

(a) Certain requirements must be met in the case of organizations described in paragraph (9) or (20) of section 501(c)

(1) Voluntary employees' beneficiary associations, etc.

An organization described in paragraph (9) or (20) of subsection (c) of section 501 which is part of a plan shall not be exempt from tax under section 501(a) unless such plan meets the requirements of subsection (b) of this section.

(2) Exception for collective bargaining agreements

Paragraph (1) shall not apply to any organization which is part of a plan maintained pursuant to an agreement between employee representatives and 1 or more employers if the Secretary finds that such agreement is a collective bargaining agreement and that such plan was the subject of good faith bargaining between such employee representatives and such employer or employers.

(b) Nondiscrimination requirements

(1) In general

Except as otherwise provided in this subsection, a plan meets the requirements of this subsection only if—

(A) each class of benefits under the plan is provided under a classification of employees which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated individuals, and

(B) in the case of each class of benefits, such benefits do not discriminate in favor of employees who are highly compensated individuals.

A life insurance, disability, severance pay, or supplemental unemployment compensation benefit shall not be considered to fail to meet the requirements of subparagraph (B) merely because the benefits available bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of employees covered by the plan.

(2) Exclusion of certain employees

For purposes of paragraph (1), there may be excluded from consideration—

(A) employees who have not completed 3 years of service,

(B) employees who have not attained age 21,

(C) seasonal employees or less than half-time employees,

(D) employees not included in the plan who are included in a unit of employees covered by an agreement between employee representatives and 1 or more employers which the Secretary finds to be a collective bargaining agreement if the class of benefits involved was the subject of good faith bargaining between such employee representatives and such employer or employers, and

(E) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

(3) Application of subsection where other non-discrimination rules provided

In the case of any benefit for which a provision of this chapter other than this subsection provides nondiscrimination rules, paragraph (1) shall not apply but the requirements of this subsection shall be met only if the nondiscrimination rules so provided are satisfied with respect to such benefit.

(4) Aggregation rules

At the election of the employer, 2 or more plans of such employer may be treated as 1 plan for purposes of this subsection.

(5) Highly compensated individual

For purposes of this subsection, the determination as to whether an individual is a highly compensated individual shall be made under rules similar to the rules for determining whether an individual is a highly compensated employee (within the meaning of section 414(q)).

(6) Compensation

For purposes of this subsection, the term “compensation” has the meaning given such term by section 414(s).

(7) Compensation limit

A plan shall not be treated as meeting the requirements of this subsection unless under the plan the annual compensation of each employee taken into account for any year does not exceed \$200,000. The Secretary shall adjust the \$200,000 amount at the same time, and by the same amount, as any adjustment under section 401(a)(17)(B). This paragraph shall not apply in determining whether the requirements of section 79(d) are met.

(c) Requirement that organization notify Secretary that it is applying for tax-exempt status

(1) In general

An organization shall not be treated as an organization described in paragraph (9), (17), or (20) of section 501(c)—

(A) unless it has given notice to the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of such status, or

(B) for any period before the giving of such notice, if such notice is given after the time prescribed by the Secretary by regulations for giving notice under this subsection.

(2) Special rule for existing organizations

In the case of any organization in existence on July 18, 1984, the time for giving notice under paragraph (1) shall not expire before the date 1 year after such date of the enactment.

(Added Pub. L. 98-369, div. A, title V, §513(a), July 18, 1984, 98 Stat. 863; amended Pub. L. 99-514, title XI, §§1114(b)(16), 1151(e)(2)(B), (g)(6), (j)(3), title XVIII, §§1851(c), 1899A(16), Oct. 22, 1986, 100 Stat. 2452, 2506-2508, 2863, 2959; Pub. L. 100-647, title I, §1011B(a)(27)(C), (31)(B), (32), Nov. 10, 1988, 102 Stat. 3487, 3488; Pub. L. 101-140, title II, §§203(a)(1), (2), 204(c), Nov. 8, 1989, 103 Stat. 830, 833; Pub. L. 103-66, title XIII, §13212(c), Aug. 10, 1993, 107 Stat. 472; Pub. L. 107-16, title VI, §611(c)(1), June 7, 2001, 115 Stat. 97.)

AMENDMENTS

2001—Subsec. (b)(7). Pub. L. 107-16 substituted “\$200,000” for “\$150,000” in two places.

1993—Subsec. (b)(7). Pub. L. 103-66 substituted “Compensation limit” for “\$200,000 compensation limit” in heading and “exceed \$150,000. The Secretary shall adjust the \$150,000 amount at the same time, and by the same amount, as any adjustment under section 401(a)(17)(B).” for “exceed \$200,000. The Secretary shall adjust the \$200,000 amount at the same time and in the same manner as under section 415(d).” in text.

1989—Subsec. (a)(1). Pub. L. 101-140, §203(a)(2), amended par. (1) to read as if amendments by Pub. L. 100-647, §1011B(a)(27)(C), had not been enacted, see 1988 Amendment note below.

Subsec. (b)(2). Pub. L. 101-140, §203(a)(2), amended par. (2) to read as if amendments by Pub. L. 100-647, §1011B(a)(31)(B), had not been enacted, see 1988 Amendment note below.

Pub. L. 101-140, §203(a)(1), amended par. (2) to read as if amendments by Pub. L. 99-514, §1151(g)(6), had not been enacted, see 1986 Amendment note below.

Subsec. (b)(7). Pub. L. 101-140, §204(c), inserted at end “This paragraph shall not apply in determining whether the requirements of section 79(d) are met.”

1988—Subsec. (a)(1). Pub. L. 100-647, §1011B(a)(27)(C), inserted at end “This paragraph shall not apply to any organization by reason of a failure to meet the requirements of subsection (b) with respect to a benefit to which section 89 applies.”

Subsec. (b)(2). Pub. L. 100-647, §1011B(a)(31)(B), substituted “there shall be” for “there may be” and “who are” for “who may be”.

Subsec. (b)(7). Pub. L. 100-647, §1011B(a)(32), added par. (7).

1986—Subsec. (a)(1). Pub. L. 99-514, §1851(c)(1), struck out “of an employer” before “shall”.

Subsec. (a)(2). Pub. L. 99-514, §1851(c)(4), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Paragraph (1) shall not apply to any organization which is part of a plan maintained pursuant to 1 or more collective bargaining agreements between 1 or

more employee organizations and 1 or more employers.”

Subsec. (b)(1). Pub. L. 99-514, §1851(c)(2), (3), substituted “as otherwise provided in this subsection” for “as provided in paragraph (2)” in introductory provision, and in subpar. (B) substituted “highly compensated individuals” for “highly compensated employees”.

Subsec. (b)(2). Pub. L. 99-514, §1151(g)(6), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “For purposes of paragraph (1), there may be excluded from consideration—

“(A) employees who have not completed 3 years of service,

“(B) employees who have not attained age 21,

“(C) seasonal employees or less than half-time employees,

“(D) employees not included in the plan who are included in a unit of employees covered by an agreement between employee representatives and 1 or more employers which the Secretary finds to be a collective bargaining agreement if the class of benefits involved was the subject of good faith bargaining between such employee representatives and such employer or employers, and

“(E) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).”

Subsec. (b)(4). Pub. L. 99-514, §1151(e)(2)(B), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “For purposes of this subsection—

“(A) AGGREGATION OF PLANS.—At the election of the employer, 2 or more plans of such employer may be treated as 1 plan.

“(B) TREATMENT OF RELATED EMPLOYERS.—Rules similar to the rules of subsections (b), (c), (m), and (n) of section 414 shall apply. For purposes of the preceding sentence, section 414(n) shall be applied without regard to paragraph (5).”

Subsec. (b)(5). Pub. L. 99-514, §1114(b)(16), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “For purposes of this subsection, the term ‘highly compensated individual’ has the meaning given such term by section 105(h)(5). For purposes of the preceding sentence, section 105(h)(5) shall be applied by substituting ‘10 percent’ for ‘25 percent’.”

Subsec. (b)(6). Pub. L. 99-514, §1151(j)(3), added par. (6).

Subsec. (c)(2). Pub. L. 99-514, §1899A(16), substituted “July 18, 1984” for “the date of the enactment of the Tax Reform Act of 1984”.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to years beginning after Dec. 31, 2001, see section 611(i)(1) of Pub. L. 107-16, set out as a note under section 415 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable, except as otherwise provided, to benefits accruing in plan years beginning after Dec. 31, 1993, see section 13212(d) of Pub. L. 103-66, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 203(a)(1), (2) of Pub. L. 101-140 effective as if included in section 1151 of Pub. L. 99-514, see section 203(c) of Pub. L. 101-140, set out as a note under section 79 of this title.

Section 204(d)(4) of Pub. L. 101-140 provided that: “The amendment made by subsection (c) [amending this section] shall take effect as if included in the amendment made by section 1011B(a)(32) of the Technical and Miscellaneous Revenue Act of 1988 [Pub. L. 100-647].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of

the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1114(b)(16) of Pub. L. 99-514 applicable to years beginning after Dec. 31, 1987, see section 1114(c)(2) of Pub. L. 99-514, set out as a note under section 414 of this title.

Amendment by section 1151(e)(2)(B), (g)(6), (j)(3) of Pub. L. 99-514 applicable, with certain qualifications and exceptions, to years beginning after Dec. 31, 1988, see section 1151(k) of Pub. L. 99-514, as amended, set out as a note under section 79 of this title.

Amendment by section 1851(c) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Section 513(c) of Pub. L. 98-369, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section] shall apply to years beginning after December 31, 1984.

“(2) TREATMENT OF CERTAIN BENEFITS IN PAY STATUS AS OF JANUARY 1, 1985.—For purposes of determining whether a plan meets the requirements of section 505(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by subsection (a)), there may (at the election of the employer) be excluded from consideration all disability or severance payments payable to individuals who are in pay status as of January 1, 1985. The preceding sentence shall not apply to any payment to the extent such payment is increased by any plan amendment adopted after June 22, 1984.”

REGULATIONS

Secretary of the Treasury or his delegate to issue before Feb. 1, 1988, final regulations to carry out amendments made by section 1114 of Pub. L. 99-514, see section 1141 of Pub. L. 99-514, set out as a note under section 401 of this title.

NONENFORCEMENT OF AMENDMENT MADE BY SECTION 1151 OF PUB. L. 99-514 FOR FISCAL YEAR 1990

No monies appropriated by Pub. L. 101-136 to be used to implement or enforce section 1151 of Pub. L. 99-514 or the amendments made by such section, see section 528 of Pub. L. 101-136, set out as a note under section 89 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

PART II—PRIVATE FOUNDATIONS

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| Sec. | |
| 507. | Termination of private foundation status. |
| 508. | Special rules with respect to section 501(c)(3) organizations. |
| 509. | Private foundation defined. |

AMENDMENTS

1969—Pub. L. 91-172, title I, §101(a), Dec. 30, 1969, 83 Stat. 492, added part heading and analysis for part II.